

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JERRY PINKS, individually and on behalf of
others similarly situated,

Plaintiff,

vs.

M & T BANK CORP.,

Defendant.

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:
Civil Action No.: 13-cv-1730—LAK—RLE

:
: **DECLARATION OF ROY W. ARNOLD**
: **IN SUPPORT OF DEFENDANT'S**
: **OPPOSITION TO PLAINTIFF'S**
: **MOTION FOR CLASS CERTIFICATION**
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Pursuant to 28 U.S.C. § 1746, I declare as follows:

1. I am a partner in the law firm of Reed Smith LLP and am lead counsel to Defendant M&T Bank Corp. ("M&T") in this action. I am an attorney licensed to practice law by the Commonwealth of Pennsylvania. I have been admitted *pro hac vice* to practice in the United States District Court for the Southern District of New York for purposes of this case. I am co-chair of Reed Smith LLP's Class Action defense team and have over 20 years of experience defending putative class action lawsuits. I submit this Declaration in support of M&T's Opposition to Plaintiff's Motion for Class Certification.

2. The exhibits attached to this Declaration supplement the exhibits attached to the Declaration of Michael P. Ryan and are numbered sequentially to those exhibits.

3. Attached as Exhibit 8 is a true and correct copy of excerpts of the transcript of the deposition Plaintiff Jerry Pinks ("Plaintiff") taken on December 8, 2014 in Charleston, South Carolina.

4. Attached as Exhibit 9 is a true and correct copy of Plaintiff's credit application dated August 5, 2008 relating to Plaintiff's purchase of a 2009 Big Country fifth wheel trailer

from Boat-N-RV Megastore in Ridgeland, South Carolina, which was previously marked as Deposition Exhibit 2 during Plaintiff's deposition.

5. Attached as Exhibit 10 is a true and correct copy of the Motor Vehicle Installment Sale Contract dated October 22, 2008 evidencing Plaintiff's purchase of a 2008 Yellowstone motor home from Boat-N-RV Megastore in Ridgeland, South Carolina, which was previously marked as Deposition Exhibit 4 during Plaintiff's deposition.

6. Attached as Exhibit 11 is a true and correct copy of Plaintiff's credit application dated October 22, 2008 relating to Plaintiff's purchase of a 2008 Yellowstone motor home from Boat-N-RV Megastore in Ridgeland, South Carolina, which was previously marked as Deposition Exhibit 5 during Plaintiff's deposition.

7. Attached as Exhibit 12 is a true and correct copy of a letter dated December 22, 2008 sent from Plaintiff to M&T requesting that M&T repossess the 2008 Yellowstone motor home, which was previously marked as Deposition Exhibit 6 during Plaintiff's deposition.

8. Attached as Exhibit 13 is a true and correct copy of a Notice of Repossession and Sale of Merchandise January 3, 2009 dated sent by M&T to Plaintiff following the repossession of the 2008 Yellowstone motor home, which was previously marked as Deposition Exhibit 7 during Plaintiff's deposition.

9. Attached as Exhibit 14 is a true and correct copy of a letter dated July 19, 2010 sent from Plaintiff to M&T requesting that M&T repossess the 2009 Big Country fifth wheel trailer, which was previously marked as Deposition Exhibit 9 during Plaintiff's deposition.

10. Attached as Exhibit 15 is a true and correct copy of Plaintiff's January 20, 2012 Voluntary Petition for chapter 7 bankruptcy in the United States Bankruptcy Court for the

District of South Carolina, which was previously marked as Deposition Exhibit 13 during Plaintiff's deposition.

11. Attached as Exhibit 16 is a true and correct copy of the docket sheet from *In re Pinks*, No. 97-04927 (Bankr. W.D. Mich.).

12. Attached as Exhibit 17 is a true and correct copy of the docket sheet from *In re Pinks*, No. 03-14117 (Bankr. W.D. Mich.).

13. Attached as Exhibit 18 is a true and correct copy of excerpts from the transcript of the March 1, 2012 section 341 meeting of creditors before trustee Michelle Vieira in *In re Pinks*, No. 12-00317 (Bankr. D.S.C.), which was previously marked as Deposition Exhibit 14 during Plaintiff's deposition.

14. Attached as Exhibit 19 is a true and correct copy of the docket sheet from *In re Pinks*, No. 12-00317 (Bankr. D.S.C.), which was previously marked as Deposition Exhibit 19 during Plaintiff's deposition.

15. Attached as Exhibit 20 is a true and correct copy of the discharge order dated May 1, 2012 in *In re Pinks*, No. 12-00317 (Bankr. D.S.C.).

16. Attached as Exhibit 21 is a true and correct copy of the "Authority to Represent" dated April 6, 2012 evidencing Plaintiff's hiring of attorneys Philip Fairbanks, Kathy Lindsay and Frederick M. Corley to represent him in a putative class action against M&T, which was previously marked as Deposition Exhibit 15 during Plaintiff's deposition.

17. Attached as Exhibit 22 is a true and correct copy of M&T's October 31, 2014 motion to reopen Plaintiff's bankruptcy in *In re Pinks*, No. 12-00317 (Bankr. D.S.C.).

18. Attached as Exhibit 23 is a true and correct copy of a letter dated December 1, 2014 from Philip Fairbanks to trustee Michelle Vieira.

19. Attached as Exhibit 24 is a true and correct copy of the order dated January 21, 2015 denying M&T's motion to reopen Plaintiff's bankruptcy case in *In re Pinks*, No. 12-00317 (Bankr. D.S.C.).


20. Attached as Exhibit 25 is a true and correct copy of excerpts from the transcript of the January 7, 2015 hearing on M&T's motion to reopen Plaintiff's bankruptcy case in *In re Pinks*, No. 12-00317 (Bankr. D.S.C.).

21. Attached as Exhibit 26 is a true and correct copy of M&T's December 9, 2015 Supplemental Response to Interrogatory No. 8, which has been submitted under seal for the Court's review.

22. Attached as Exhibit 27 is a true and correct copy of M&T's April 1, 2015 Supplemental Brief in Support of Motion to Stay Regarding Amount in Controversy filed in this case.

23. I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 20, 2016


Roy W. Arnold